

DEPARTMENT OF BENEFIT PAYMENTS

44 P Street, Sacramento, CA 95814
(916) 322-5330



January 5, 1977

ALL-COUNTY LETTER NO. 77-1

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: HOUSEHOLD ITEMS AND FURNISHINGS

REFERENCE:

Attached is an advance copy of a revision to the personal property regulations. These regulations were filed on an emergency basis on December 28, 1976. EAS Manual Section 42-211.23 is being repealed and Section 42-213.21(1) added in order to conform to Chapter 894, statutes of 1976 (AB 3582) which became effective January 1, 1977. The new law and regulations exclude household items and furnishings in evaluating property which may be retained by AFDC or APSB applicants and recipients.

These regulatory changes will be incorporated in the next printing of the CA 2 (formerly WR 2) and CA 3 (formerly WR 3). Meanwhile, it will be necessary to line out the words "household items and household furnishings" along with their accompanying examples on the current CA 2, item 17. This must be done before AFDC applicants/recipients complete the form. Also, items G-3 and G-4 on the CA 3 should be lined out.

As soon as the regulation is in print, it will be forwarded to you. If you have any questions, please contact your AFDC Management Consultant at (916) 445-4458.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Kyle S. McKinsey'.

KYLE S. MCKINSEY
Deputy Director

Attachment

cc: CWDA

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11180.1)

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

Department of Benefit Payments

(Agency)

Dated: December 10, 1976

By:

By: Mahesh P. Bode

Director

(Title)

DO NOT WRITE IN THIS SPACE.

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After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part 1, Chapter 4.5) and pursuant to the authority vested by Sections 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Benefit Payments hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

FINDING OF EMERGENCY

The implementation of the following regulations is an emergency measure necessary for the immediate preservation of the public health, safety, and general welfare within the meaning of the provisions of Section 11421 (b) of the Government Code.

Repealed Section: 42-211.23

Amend Section: 42-213.21

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FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE
(Pursuant to Government Code Section 11360.1)

The following facts constitute the emergency:

1. Chapter 24, Statutes of 1976 (AB 713), becomes effective January 1, 1977, and removes the current limitations on the value of household items and furnishings which may be owned by an AFGB or AFBO applicant or recipient.
2. Applicants and recipients affected by this change will be seriously disadvantaged if this proposed regulation is not effective on January 1, 1977.
3. Adoption by the non-emergency procedures of the Government Code would not permit this early effective date, therefore these regulations will be filed on an emergency basis to become effective January 1, 1977.

The regulation changes set forth above are adopted as emergency measures to become effective January 1, 1977, after filing with the Secretary of State.

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42-213 PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY WHICH MAY
BE RETAINED

42-213

AEFC
APSB

2 Personal Property to be Excluded

The following are excluded from consideration in personal property reserve limitations (see Sections 42-207.3 and .6).

21 Applicable to Both Programs

- a. Funds held in escrow account if the escrow can be revoked only upon the consent of all parties involved.
- b. Stock in a water company not appurtenant to the land in the amount necessary for agricultural purposes.
- c. Loans not available for current need because of conditions imposed by the lender and any unexpended portions of loans or grants that are exempt from consideration as income under Section 44-111.43.

- d. The following burial reserves when the total amount paid for all such items does not exceed \$1,000:

- (1) Money or securities placed in an irrevocable trust for funeral, cremation or interment expenses with any of the trustees mentioned in Section 7736 of the Business and Professions Code.

An irrevocable trust, within the meaning of this section is a written agreement between the applicant or recipient and the trustee(s) which expressly provides that the trust agreement is irrevocable, and that the trustee obligates himself to apply the money held in trust for the funeral, cremation or interment of the applicant or recipient.

Trustees mentioned in Section 7736 of the Business and Professions Code are limited to:

- (a) A banking institution or trust company legally authorized and empowered by the State of California to act as trustee in the handling of trust funds.

or

- (b) Not less than three persons, one of whom may be an employee of the funeral director who is entering into a Preneed Funeral Arrangement as provided in Business and Professions Code Sections 7735 through 7742.

- (2) Life or burial insurance purchased specifically for funeral, cremation or interment expenses which is placed in an irrevocable trust or which has no loan or cash value available to the insured during his lifetime. Included are:

- (a) An insurance policy on the life of the applicant payable to a beneficiary who has irrevocably agreed to apply the proceeds from the insurance for funeral, cremation or interment of the insured.

- (b) An insurance policy which is payable on death to the estate of the insured and thus, in effect, becomes a resource earmarked for burial.

- (3) Securities issued by a licensed cemetery authority which by their terms are convertible only into payment for funeral, cremation or interment expenses.

In addition to the foregoing, the value of an interment plot, vault or crypt, retained for use of the owner, is also excluded from consideration as personal property and is not subject to the \$1,000 total payment limitation specified above.

Burial reserves excluded from consideration as personal property under this section are considered to be separate property of the person for whose use they are intended.

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42-213

PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY WHICH MAY
BE RETAINED (Continued)

42-213

AFDC
AFSB

e. Federal Payments to Indians and Alaskan Natives

- (1) Payments received from the Federal Government under Public Law 90-507 shall be excluded from consideration as personal property when the total of nonexempt personal property, including such payments does not exceed \$2,000 for each individual adult or minor recipient.

When such payments are converted into other property, the property shall be treated the same as the payments. However, if the property received through such a conversion is again converted, the property (real or personal) acquired is subject to the limitations on property contained in Chapter 42-200.

- (2) Payments received from the Federal Government under Public Law 92-254 shall be excluded from consideration.

- (3) Per capita payments distributed pursuant to any judgment of the Indian Claims Commission or the Court of Claims in favor of any Indian Tribe are exempt (Public Law 93-134).

(4) Alaskan Natives

Shares of stock and money payments made to Alaskan Natives under the Alaskan Native Claims Settlement Act are exempt as long as the payments or stock remain separately identifiable and not commingled with nonexempt resources. Any property obtained from stock investments under the Act is not exempt.

f. Relocation Assistance Benefits

Relocation assistance benefits paid by a public agency to a public assistance recipient who has been relocated as a result of a program of area redevelopment, urban renewal, freeway construction or any other public development, involving demolition or condemnation of existing housing.

g. Lost, Stolen, Damaged, or Destroyed Property

The amount of a payment which compensates for property which was lost, stolen, damaged, or destroyed (see Section 44-105) is excluded for the month of receipt and the following calendar month. Thereafter the amount shall be treated in accordance with Section 42-211.258.

h. Retroactive Corrective Aid

The amount of a payment of retroactive corrective aid (see Section 44-331) is excluded for the month of receipt and the following calendar month. Thereafter the amount shall be treated in accordance with Section 42-211.258.

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42-213 PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY WHICH MAY 42-213
BE DETAINED (Continued)

i. Household Items and Furnishings

Household items and furnishings falling within the following
general categories are exempt when used to provide, equip, or
maintain a household for the applicant or recipient:

- (1) Furniture, including rugs, drapes and mirrors.
- (2) Major and small appliances, including air conditioners.
- (3) Kitchenware.
- (4) Television and music systems.
- (5) Cleaning equipment.
- (6) Gardening equipment.

Permanently affixed items, such as built-in appliances and wall-
to-wall carpeting, are considered real property.

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The following regulation is to be repealed effective January 1, 1977
after filing with the Secretary of State:

42-211.23 Household Items and Furnishings

There are no state mandated local costs in these proposed regulations
that require reimbursement under Section 2231 of the Revenue and
Taxation Code because any costs are considered negligible and will
not place a significant financial burden on the counties.

Approved:

Marion J. Woods
MARION J. WOODS, Director
Department of Benefit Payments

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